

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-15211 of 2020 (O&M)

Date of Decision: 16.06.2020

Malkeet Singh

...Petitioner

Versus

State of Haryana

... Respondent

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

**Present:- Mr. S.S. Sodhi, Advocate
for the petitioner.**

Ms. Tanisha Peshawarai, DAG Haryana.

**Mr. C.P. Tiwana, Advocate
For the complainant.
(presence marked through Video Conferencing)**

ARUN MONGA, J.

1. After arguing for some time, learned counsel for the petitioner, at this stage, seeks to withdraw the instant pre-arrest bail application filed under Section 438 Cr.P.C.
2. Dismissed as withdrawn, as prayed for.
3. However, before parting, this Court would like to observe that though genuineness and real genesis of the allegations contained in the FIR in question would be established only in the course of investigation, but the factual narrative therein, vis-à-vis the ordeal suffered by the complainant, is a sordid tale on how unscrupulous immigration agents deceive gullible Indians who are aspirants of overseas jobs. A bare reading of FIR is no less chilling and shuddering than a Goosebumps giving, pot-boiler Hollywood thriller action movie plot.
4. Per FIR, complainant states that the accused promised to send him directly to United States of America on payment of Rs.20 lacs. Of which, 50% i.e. Rs.10 lacs was paid in India. Balance was to be paid on his successful arrival in USA. Americas,

the complainant did reach, but South America, instead of United States. Complainant was first made to board a hopping flight from Delhi to Sao Paulo in Brazil. From Sao Paulo, complainant was flown to Lialeem (sic). From there he was sent via another flight to Ecuador (South America). From Ecuador complainant was made to travel by road in a bus to Columbia (South America). Thereafter, journey continued from Medellin (Columbia) to Turbo (Columbia). From Turbo, the complainant travelled on the high seas by sailing in a boat to Capurgana (Colombia). After arriving at Capurgana, the complainant was grouped with a bunch of illegal immigrants. They then trekked the thick forests of Panama (Central America). The complainant group stayed for five days in jungles of Panama. One day they also stayed in an Army Camp in the forest. From Army Camp, complainant was moved to an illegal camp where he stayed for 24 days. Thereafter, the complainant was made to travel to Nicaragua (Central America) and onward to Honduras (Central America). From Honduras, complainant was then taken to Mexico for entering in the United States of America. Finally, complainant was made to cross Mexico/USA border, albeit illegally. And to what a welcome in USA ! Complainant was immediately arrested by US Police in California for illegally crossing the border from Mexico. After his arrest, complainant was lodged in a jail in Georgia, USA. For ten months, he continued to languish in Georgia prison. Perhaps, he would have continued to suffer in jail but for the outbreak of Covid-19 pandemic. The dreaded fatal virus turned out to be blessing in disguise for the complainant in view of decision to deport illegal jailed immigrants lodged in USA, as a measure to plug the community spread of Corona viral infection. From Panchkula to Georgia prison to Panchkula, thus was complainant back home. Hence the FIR.

5. The accused/petitioner though claims that allegations qua him are at the instance of Sarpanch of the village, being figment of his imagination, owing to some previous inter-se enmity with him. If that be so, surely the Sarpanch, with such fictitious imagination, should give up his current responsibility and take up fiction

writing, for he is perfect material for a bestseller novel/invented story and would give quite a run for money to established novelists.

6. The bail petition has though been withdrawn but this Court cannot be unmindful of its duty to plug such in-humanitarian cases at the instance of the crooked, deceitful and immoral immigration agents, who rampantly indulge in human trafficking by treating an individual as no less than chattel. Sure enough, even when smuggled, chattel would be transported conceivably in better conditions than humans.

7. Whoever be the culprit in present case, only investigation would reveal. Without expressing any opinion on merits thereof, on culpability of the accused or otherwise, it would be apt to request Respondent-State of Haryana through its Home Secretary as well as its Director General of Police to have a meeting on administrative side, so as to explore the possibility of preventing such kind of illegal immigration/human trafficking. If considered advisable and viable, they may constitute some kind of Regulatory Body and/or nominate an officer in every district who would have to necessarily issue an accreditation Certificate as a pre requisite to every agent claiming to be in business of immigration/naturalization and/or offering overseas jobs to the public at large in their State. Press publicity from time to time may also be given to general public qua the same. Accredited agents list could be uploaded on website so that a background check can be carried out on their genuineness/credentials, before anyone hires their services. Petition stands dismissed with aforesaid observations.

(ARUN MONGA)
JUDGE

16.06.2020
Jiten

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No